

Message Text

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FM SECSTATE WASHDC
TO AMEMBASSY MOSCOW

UNCLAS STATE 182176

E.O. 11652:N/A

TAGS: AMGT

SUBJECT: ZONING REGS

REF: MEMO

FOR HAROLD BURMAN TDY FROM LINDA SHENWICK

DEAR DR. LEWIS:

IN HIS JUNE 22 STATEMENT TO THE ZONING COMMISSION AT THE CONTINUATION OF THE HEARING ON CASES NOS. 77-45 AND 77-46, GEORGE OBERLANDER INDICATED THAT I AM PREPARED TO RECOMMEND TO THE PLANNING COMMISSION MODIFICATIONS TO THE COMPREHENSIVE PLAN "WHICH WOULD PERMIT THE LOCATION OF CHANCERIES AND INTERNATIONAL AGENCIES IN APPROPRIATE EXISTING AND PLANNED OFFICE AREAS IN ADDITION TO THOSE ALREADY IDENTIFIED BY THE CRITERIA IN THE COMPREHENSIVE PLAN". I AM PLEASED TO TRANSMIT, FOR THE INFORMATION OF THE ZONING COMMISSION, A DRAFT OF MODIFICATION NO. 78- TO THE COMPREHENSIVE PLAN, WHICH I WILL PLACE BEFORE THE PLANNING COMMISSION AT ITS AUGUST 3 MEETING.

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IN ADDITION, THERE ARE SET FORTH BELOW RECOMMENDED CHANGES IN THE ALTERNATE DRAFT DATED MAY 5, 1978 OF TEXT AMENDMENTS IN CASE NO. 77-45 AS SET FORTH IN THE NOTICE OF THE JUNE 22 HEARING:

1. ADD NEW DEFINITIONS IN SECTION 1202, AS FOLLOWS:

"HISTORIC DISTRICT: AN AREA, PLACE, SITE, VICINITY, OR NEIGHBORHOOD, DESIGNATED AS SUCH BY THE JOINT COMMITTEE ON LANDMARKS OF THE NATIONAL CAPITAL FOR INCLUSION IN THE DISTRICT OF COLUMBIA INVENTORY OF HISTORIC SITES.

"HISTORIC LANDMARK: A BUILDING, STRUCTURE, SITE, PLACE, MONUMENT, WORK OF ART OR OTHER SIMILAR OBJECT, DESIGNATED AS SUCH BY THE JOINT COMMITTEE ON LANDMARKS OF THE NATIONAL CAPITAL FOR INCLUSION IN THE DISTRICT OF COLUMBIA INVENTORY OF HISTORIC SITES."

THESE DEFINITIONS ARE IDENTICAL TO THE DEFINITIONS OF THESE TERMS IN PARAGRAPHS 313.197 AND 313.198 OF THE COMPREHENSIVE PLAN AND AS USED BY THE JOINT COMMITTEE ON LANDMARKS.

2. IN PARAGRAPH 4601.2, ADD THE WORDS "DISTRICT OF COLUMBIA" BEFORE THE WORDS "SELF GOVERNMENT AND GOVERNMENTAL REORGANIZATION ACT" AND DELETE THE WORDS "ADOPTED BY THE NATIONAL CAPITAL PLANNING COMMISSION (977)".

THIS RECOMMENDED CHANGE AND THE THIRD AND FOURTH BELOW ARE TECHNICAL AND CLARIFYING OR ADD WORDS WHICH APPEAR TO HAVE BEEN INADVERTENTLY OMITTED.

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3. IN PARAGRAPH 4601.4, ADD THE WORD "MISSIONS" AFTER THE WORD "FOREIGN".

4. IN PARAGRAPH 4601.6, ADD THE WORDS "CHANCERIES AND" BEFORE THE WORDS "INTERNATIONAL AGENCIES" IN BOTH SENTENCES.

5. DELETE PARAGRAPH 4601.7 AND RENUMBER PARAGRAPHS 4601.8 AND 4601.9 AS PARAGRAPHS 4601.7 AND 4601.8, RESPECTIVELY.

PARAGRAPH 4601.7 IS INCONSISTENT WITH THE COMPREHENSIVE PLAN. HOWEVER, ITS OBJECTIVE WOULD BE SUBSTANTIALLY MET THROUGH ADOPTION OF MODIFICATION NO. 78- TO THE COMPREHENSIVE PLAN AND THE MAPPING AS D-1 AND D-2 DISTRICTS OF EXISTING COMMERCIAL AREAS WITH SIGNIFICANT OFFICE COMPONENTS IN ACCORDANCE WITH THE PROPOSED REVISED FOREIGN MISSIONS AND INTERNATIONAL AGENCIES DIAGRAM.

6. AMEND SECTION 4602 BY

(1) DELETING THE WORDS "IS A PERMITTED USE, AND INSERT IN LIEU THEREOF THE WORDS "SHALL BE PERMITTED";

(2) DELETING IN SUBPARAGRAPH 4602.11 THE WORDS "ONE PARKING SPACE FOR EVERY FOUR (4) EMPLOYEES OR" AND THE WORDS "WHICHEVER IS GREATER";

(3) CHANGING THE PERIOD AT THE END OF SUBPARAGRAPH 4602.22 TO A COMMA AND ADDING

"PROVIDED THE BOARD SHALL NOT IMPOSE CONDITIONS WHICH PRECLUDE A CHANCERY FROM COMPLYING WITH THE STANDARDS IN PARAGRAPH 4602.1"; AND

(4) SUBSTITUTING THE WORDS "HISTORIC LANDMARK" FOR THE WORD "STRUCTURE" IN SUBPARAGRAPH 4602.23.

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AMENDMENTS (1) AND (3) WOULD MAKE CLEAR THE "MATTER-OF-RIGHT" POLICY UNDERLYING THE FOREIGN MISSIONS AND INTERNATIONAL AGENCIES ELEMENT OF THE COMPREHENSIVE PLAN; AMENDMENT (2) WOULD PROVIDE FOR A MEASURABLE OFF-STREET PARKING STANDARD AND IS THE SAME MODIFICATION TO SUBPARAGRAPH 4602.11 RECOMMENDED BY THE DEPARTMENT OF STATE; AND AMENDMENT (4), TOGETHER WITH THE ADDED DEFINITIONS OF "HISTORIC DISTRICT" AND "HISTORIC LANDMARK" RECOMMENDED ABOVE, WOULD MAKE UNIFORM THE TERMINOLOGY USED IN THE ZONING REGULATIONS AND BY THE STATE HISTORIC PRESERVATION OFFICER AND THE JOINT COMMITTEE ON LANDMARKS OF THE NATIONAL CAPITAL.

7. DELETE SECTION 4604 EXCEPT PARAGRAPH 4604.3.

THESE PROVISIONS ARE INCONSISTENT WITH THE COMPREHENSIVE PLAN. HOWEVER, THE OBJECTIVE OF PERMITTING CHANCERIES AND INTERNATIONAL AGENCIES IN EXISTING OFFICE AREAS WOULD BE SUBSTANTIALLY MET THROUGH ADOPTION OF MODIFICATION NO. 78- TO THE COMPREHENSIVE PLAN AND THE MAPPING OF D-1 AND D-2 DISTRICTS IN ACCORDANCE WITH THE PROPOSED REVISED FOREIGN MISSIONS AND INTERNATIONAL AGENCIES DIAGRAM.

. RENUMBER PARAGRAPH 4604.3 AS SECTION 4604 AND PARAGRAPHS 4604.31, 4604.32 4604.33, AND 4604.34 AS PARAGRAPHS 4604.1, 4604.2, 4604.3 AND 4604.4, RESPECTIVELY.

THIS RECOMMENDED CHANGE AND THE NINTH, TENTH, AND TWELFTH BELOW ARE TECHNICAL AND CONFORM THE TEXT TO THE DELETION

OFSECTION 4604 EXCEPT PARAGRAPH 4604.3.

9. DELETE THE COMMA AND THE WORDS ,SUBJECT TO THE PRO-
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VISIONS OF SUBSECTION 4604.2" IN NEW PARAGRAPH 3101.313.

10. SUBSTITUTE "SECTION 4604" FOR "SUBSECTION 4604.3"
IN NEW PARAGRAPH 3105.46.

11. DELETE EXISTING AND PROPOSED PARAGRAPH 5101.39.

EXISTING AND PROPOSED PARAGRAPHS 5101.39 ARE INCONSISTENT WITH THE COMPREHENSIVE PLAN TO THE EXTENT THAT THEY PERMIT OR WOULD PERMIT CHANCERIES AND INTERNATIONAL AGENCIES IN SOME AREAS WHICH ARE ZONED COMMERCIAL OR INDUSTRIAL BUT WHICH WOULD NOT BE MAPPED D-1 AND D-2 DISTRICTS IN ACCORDANCE WITH THE FOREIGN MISSIONS AND INTERNATIONAL AGENCIES DIAGRAM.

12. REVISE AMENDMENT TO SUBSECTION 8207.2 TO READ:

"CHANCERY D-1 4602
-- R-5-C & R-5-D 4604".

IF THE ALTERNATE TEXT AMENDMENTS ARE CHANGED AS RECOMMENDED AND MODIFICATION NO. 78- TO THE COMPREHENSIVE PLAN IS ADOPTED BY THE PLANNING COMMISSION, I BELIEVE THAT THE PROPOSED AMENDMENTS TO THE TEXT OF THE ZONING REGULATIONS RELATING TO CHANCERIES AND INTERNATIONAL AGENCIES WOULD NOT BE INCONSISTENT WITH THE COMPREHENSIVE PLAN.

(SGD) CHARLES H. CONRAD

MODIFICATION NO. 78- TO THE COMPREHENSIVE PLAN FOR THE NATIONAL CAPITAL (FOREIGN MISSIONS AND INTERNATIONAL AGENCIES)

EXECUTIVE DIRECTOR'S RECOMMENDATION

THE EXECUTIVE DIRECTOR RECOMMENDS THAT THE COMMISSION
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ADOPT THE FOLLOWING MODIFICATION NO. 78- TO THE COMPREHENSIVE PLAN FOR THE NATIONAL CAPITAL:

1. AMEND THE LAST SENTENCE OF PARAGRAPH 100.319 AND THE LAST SENTENCE OF PARAGRAPH 313.21 TO READ:

-- "LOCATIONS THAT ARE COMPATIBLE WITH THE EXISTING

- AND FUTURE DEVELOPMENT OF THE NATIONAL CAPITAL
- AND CONTRIBUTE TO ITS QUALITIES ARE DESIRED."

2. AMEND PARAGRAPH 313.41 BY (1) PLACING A COMMA AFTER THE WORDS "COMBINED CHANCERY/EMBASSIES" AND ADDING THE WORDS "EXCEPT AS OTHERWISE REQUIRED BY PUBLIC LAW 88-659,".

3. AMEND SUBPARAGRAPH 313.411 BY CHANGING THE SEMICOLON AT THE END THEREOF TO A COMMA AND ADDING THE FOLLOWING:

- "OR (3) OF EXISTING COMMERCIAL ACTIVITY IN WHICH
- OFFICE USES ARE AN APPROPRIATE AND SIGNIFICANT
- COMPONENT;".

4. AMEND PARAGRAPH 313.42 BY DELETING "(NCPC MAP FILE NO. 04.00/100.00-28349)" AND INSERTING IN LIEU THEREOF "(NCPC MAP FILE NO. 04.00/100.00-)".

5. AMEND SUBPARAGRAPH 313.511 TO READ:

- "(1) DESIGNATED ON THE 'GENERAL LAND USE OBJECTIVES:
 - 1970/1985' DIAGRAM FOR (A) PREDOMINANTLY OFFICE
 - USE, EXCEPT AREAS UNDER THE JURISDICTION OF THE
 - ARCHITECT OF THE CAPITOL, OR (B) MIXED USES,
 - INCLUDING OFFICE, COMMERCIAL, INSTITUTIONAL AND
 - HIGH DENSITY RESIDENTIAL, OR (2) OF EXISTING
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- COMMERCIAL ACTIVITY IN WHICH OFFICE USES ARE
- AN APPROPRIATE AND SIGNIFICANT COMPONENT;".

6. AMEND PARAGRAPH 313.61 BY DELETING THE WORD "PRINCIPAL"

7. SUBSTITUTE THE "FOREIGN MISSIONS AND INTERNATIONAL AGENCIES" DIAGRAM, NCPC MAP FILE NO. 04.00/100.00- , FOR THE "FOREIGN MISSIONS AND INTERNATIONAL AGENCIES" DIAGRAM, NCPC MAP FILE NO. 04.00/100.00-28349.

IN THE JUNE 22 STATEMENT ON BEHALF OF THE PLANNING COMMISSION TO THE ZONING COMMISSION AT THE CONTINUATION OF ITS HEARING ON CASES NOS. 77-45 AND 77-46, ZONING TEXT AND MAP AMENDMENTS IMPLEMENTING THE FOREIGN MISSIONS AND INTERNATIONAL AGENCIES ELEMENT OF THE COMPREHENSIVE PLAN, THE ZONING COMMISSION WAS ADVISED THAT THE EXECUTIVE DIRECTOR IS PREPARED TO RECOMMEND TO THE PLANNING COMMISSION MODIFICATIONS TO THE COMPREHENSIVE PLAN "WHICH WOULD PERMIT THE LOCATION OF CHANCERIES AND INTERNATIONAL AGENCIES IN APPROPRIATE EXISTING AND PLANNED OFFICE AREAS IN ADDITION TO THOSE ALREADY IDENTIFIED BY THE CRITERIA IN THE COMPREHENSIVE PLAN". MODIFICATION NO. 78- CONTAINS

SUCH AMENDMENTS, AS WELL AS SEVERAL OTHER CONFORMING OR TECHNICAL AMENDMENTS, ALL AS DESCRIBED BELOW.

THE FIRST AMENDMENT, IN THE PART ON "GOALS FOR THE NATIONAL CAPITAL" AND IN THE SECTION ON GOALS OF THE "FOREIGN MISSIONS AND INTERNATIONAL AGENCIES" ELEMENT OF THE COMPREHENSIVE PLAN, WOULD MAKE SUCH PROVISIONS CONSISTENT WITH PROPOSED AMENDED SUBPARAGRAPHS 313.411 AND 313.511 PERMITTING THE LOCATION OF CHANCERIES IN CERTAIN AREAS OF EXISTING CHANCERY CONCENTRATIONS AND IN EXISTING COMMERCIAL AREAS IN WHICH OFFICE USES ARE AN APPROPRIATE AND SIGNIFICANT COMPONENT AND PERMITTING INTERNATIONAL AGENCIES IN SUCH EXISTING COMMERCIAL AREAS.

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THE SECOND AMENDMENT WOULD MAKE CLEAR THAT PUBLIC LAW 88-659 PERMITS CHANCERIES IN R-5-C AND R-5-D DISTRICTS UNDER THE ZONING REGULATIONS WHETHER OR NOT SUCH AREAS MEET THE CRITERIA OF PARAGRAPH 313.41 AND ARE MAPPED ON THE FOREIGN MISSIONS AND INTERNATIONAL AGENCIES DIAGRAM.

THE THIRD AND FIFTH AMENDMENTS WOULD PERMIT CHANCERIES AND INTERNATIONAL AGENCIES IN EXISTING COMMERCIAL AREAS IN WHICH OFFICE USES ARE AN APPROPRIATE AND SIGNIFICANT COMPONENT, THE SEVENTH AMENDMENT WOULD SUBSTITUTE A REVISED DIAGRAM REFLECTING SUCH ADDITIONAL AREAS IN WHICH CHANCERIES AND INTERNATIONAL AGENCIES WOULD BE PERMITTED, AND THE FOURTH AMENDMENT WOULD CHANGE THE TEXT REFERENCE TO THAT OF THE PROPOSED REVISED DIAGRAM. THE ADDITIONAL AREAS ON THE PROPOSED REVISED DIAGRAM ARE DERIVED FROM THE APPLICATION OF THE PROPOSED NEW CRITERIA IN SUBPARAGRAPHS 313.411 AND 313.511 TO THE "EXISTING COMMERCIAL ACTIVITY AREAS: 1977 " MAP PREPARED BY THE MUNICIPAL PLANNING OFFICE. ALL AREAS ON THE MAP CLASSIFIED AS "SUB-CITY SERVING COMMERCIAL AREAS" AND "CITY-WIDE SERVING COMMERCIAL AREAS" AND NOT PREVIOUSLY MAPPED ON THE DIAGRAM ARE ADDED AS "CHANCERY FACILITIES" AREAS ON THE PROPOSED REVISED DIAGRAM. ALL AREAS ON THE MAP CLASSIFIED AS "COMMERCIAL CORE" AND NOT PREVIOUSLY MAPPED ON THE DIAGRAM AS "CHANCERY FACILITIES AND INTERNATIONAL AGENCIES" AREAS ARE ADDED TO THAT CATEGORY ON THE PROPOSED REVISED DIAGRAM. THESE CLASSIFICATIONS ARE DESCRIBED IN DETAIL IN A DOCUMENT DATED MARCH 20, 1978 PREPARED BY MPO AND ENTITLED "EXPLANATORY TEXT WITH MAP, EXISTING COMMERCIAL ACTIVITY AREAS, DISTRICT OF COLUMBIA".

THE SIXTH AMENDMENT IS TECHNICAL AND WOULD ELIMINATE AN INCONSISTENCY BETWEEN THE DEFINITIONS OF "CHANCERY" AND
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"CHANCERY ANNEX" AND THE TEXT OF PARAGRAPH 313.61.

-----A BILL

-----2-291

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

TO PROVIDE FOR THE LIMITATION ON THE LOCATION OF CHANCERIES
IN RESIDENTIAL AREAS OF THE DISTRICT OF COLUMBIA.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,
THAT THIS ACT MAY BE CITED AS THE "LOCATION OF CHANCERIES
AMENDMENT OF 1978".

SEC. 2. SECTION 6(C) OF THE ACT ENTITLED, "AN ACT PRO-
VIDING FOR THE ZONING OF THE DISTRICT OF COLUMBIA AND
THE REGULATION OF THE LOCATION, ;EIGHT, BULK, AND USES
OF BUILDINGS AND OTHER STRUCTURES AND THE USES OF LAND
IN THE DISTRICT OF COLUMBIA, AND FOR OTHER PURPOSES",
APPROVED JUNE 20, 1938, AS AMENDED (D.C. CODE, SEC. 5-418),
IS AMENDED BY STRIKING THE PERIOD AT THE END THEREOF,
AND INSERTING IN LIEU THEREOF THE WORDS, "AND WHICH
RESTRICTION WAS IN EFFECT ON JULY 1, 1978".

SEC. 3. THIS ACT SHALL TAKE EFFECT PURSUANT TO THE
PROVISIONS OF SECTION 602(C) OF THE DISTRICT OF COLUMBIA
SELF-GOVERNMENT AND GOVERNMENTAL REORGANIZATION ACT.

MEMORANDUM DATED JULY 13, 1978

FROM: LOUIS P. ROBBINS

SUBJECT; SUPPLEMENTAL COMMENTS ON BILL 2-291, LOCATION
OF CHANCERIES AMENDMENT OF 1978 (LCD NO. UAB83661)

THIS MEMORANDUM IS INTENDED TO SUPPLEMENT THE VIEWS
EXPRESSED IN MY MEMORANDUM TO YOU, DATED APRIL 13, 1978,
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WITH RESPECT TO BILL 2-291. IN ITS PRESENT FORM THE BILL
WOULD AMEND SECTION 5-418, D.C. CODE, (COMMONLY REFERRED
TO AS THE "FULBRIGHT ACT"), IN SUCH A MANNER AS WOULD,
IF EFFECTIVE, SEVERELY RESTRICT THE AUTHORITY OF THE
ZONING COMMISSION. THE CRITICAL PROBLEM WITH THE RES-
TRICTION, IN THIS INSTANCE, IS THAT IT WOULD, ALMOST TO
A CERTAINTY, PRECLUDE THE ZONING COMMISSION FROM COMPLYING

WITH THAT PROVISION OF SECTION 492 OF THE CHARTER WHICH IS CODIFIED AT SEC. 5-414, D.C. CODE, 1977 SUPP. SEC. 5-414 PROVIDES, IN PERTINENT PART:

- ZONING MAPS AND REGULATIONS, AND AMENDMENTS
- THERETO, SHALL NOT BE INCONSISTENT WITH THE
- COMPREHENSIVE PLAN FOR THE NATIONAL CAPITAL .

OF PARTICULAR RELEVANCE TO BILL NO. 2-291 IS THE ADOPTION BY THE NCPC, ON OCTOBER 6, 1977, OF THE "FORIEGN MISSIONS AND INTERNATIONAL AGENCIES ELEMENT OF THE COMPREHENSIVE PLAN." IN ADOPTING THE PLAN ELEMENT, THE NCPC WAS EXERCISING ITS AUTHORITY AS A FEDERAL AGENCY, GROUNDED UPON 40 U.S.C. 71C(A), FOR PLANNING WITH RESPECT TO THE FEDERAL INTEREST IN THE DISTRICT OF COLUMBIA. UPON THE ADOPTION BY THE NCPC OF THE FEDERAL PLAN ELEMENT, IT BECAME THE RESPONSIBILITY OF THE ZONING COMMISSION TO UNDERTAKE THE ADOPTION OF SUCH AMENDMENTS TO THE ZONING MAPS AND REGULATIONS AS WILL RENDER THEM NOT INCONSISTENT WITH THE PLAN ELEMENT. THE COMMISSION HAS NO ALTERNATIVE TO SUCH AN UNDERTAKING. ACCORDINGLY, IT INITIATED PENDING ZONING COMMISSION CASES NUMBERED 77-45 AND 77-56. I HAVE ADVISED THE ZONING COMMISSION OF CERTAIN GENERAL LEGAL PRINCIPLES WHICH I BELIEVE TO BEAR ON THE "NOT INCONSISTENT WITH" QUESTION. BECAUSE I BELIEVE THOSE PRINCIPLES TO BE EQUALLY APPLICABLE TO THE COUNCIL'S EXERCISE OF ITS UNCLASSIFIED

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AUTHORITY, IN THE CONTEXT OF ADOPTING A LOCAL ELEMENT OF THE COMPREHENSIVE PLAN, THEY ARE SET FORTH BELOW:

1. THE SELF-GOVERNMENT ACT DOES NOT PRECLUDE EFFECTIVE LOCAL DECISION-MAKING BY THE ZONING COMMISSION.
2. IT IS TO BE EXPECTED AS A NORMAL PART OF THE PROCESS THAT THE ZONING COMMISSION MAY FROM TIME TO TIME PROPOSE ACTION WHICH MAY REQUIRE THE NCPC, DURING ITS REVIEW, TO RE-EVALUATE A PLAN ELEMENT IT HAS ADOPTED.
3. THE ULTIMATE ADMINISTRATIVE EVALUATION OF ANY QUESTION OF INCONSISTENCY IS TO BE MADE BY THE ZONING COMMISSION AND SUCH CAN ONLY OCCUR AFTER NCPC REVIEW AND IN THE LIGHT OF THE NCPC'S COMMENTS.

SIMILARLY, THE SELF-GOVERNMENT ACT DOES NOT RESTRICT, BUT INDEED SUBSTANTIALLY ENHANCES, THE COUNCIL'S LOCAL PLANNING AUTHORITY; AND THE COUNCIL MAY PROMULGATE A LOCAL PLAN ELEMENT WHICH REQUIRES THE NCPC TO RE-EVALUATE A FEDERAL PLAN ELEMENT; AND THE COUNCIL IS NOT REQUIRED TO PRESUME INCONSISTENCY, OR NEGATIVE FEDERAL IMPACT, BUT MAY ADOPT

A LOCAL PLAN ELEMENT, EVEN IF IN PART IT APPEARS TO BE INCONSISTENT WITH A FEDERAL PLAN ELEMENT OR TO HAVE A NEGATIVE IMPACT ON THE FEDERAL ESTABLISHMENT, AND SUBMIT SUCH LOCAL PLAN ELEMENT TO THE NCPC.

HOWEVER, IN ACTING IN SUCH A MANNER IN THE COURSE OF ACTION ON A LOCAL PLAN ELEMENT, THE COUNCIL WOULD BE ACTING IN THE CONTEXT WHICH INCLUDED THE NCPC REVIEW FOR FEDERAL INTEREST IMPACT. COUNCIL ACTION IN SUCH A CONTEXT IS TO BE DISTINGUISHED FROM COUNCIL ACTION BY PLAIN ACT, WITHOUT NCPC REVIEW.

IN SHORT, THEN, PROPOSED BILL 2-291 WOULD HAVE THE EFFECT OF CIRCUMSCRIBING THE ZONING COMMISSION'S AUTHORITY TO UNCLASSIFIED

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COMPLY WITH THE SELF-GOVERNMENT ACT'S MANDATE THAT THE ZONING REGULATIONS NOT BE INCONSISTENT WITH THE COMPREHENSIVE PLAN, AND WOULD DO SO WITHOUT NCPC REVIEW OR OR COMMENT. 1/ THE INDISPUTABLE EFFECT OF SUCH ACTION WOULD BE DIRECTLY IN CONFLICT WITH SEC. 1-147(A), D.C. CODE, 1977 SUPP., WHICH PROVIDES IN PERTINENT PART:

1/ IT ALSO APPEARS THAT THE BILL WOULD OPERATE TO ABROGATE THE ZONING COMMISSION APPROVAL OF THE FRENCH AND ITALIAN PUD'S, WHICH THE NCPC HAS EXPLICITLY ACTED TO PERMIT AND WHICH THE ZONING COMMISSION HAS PRELIMINARILY APPROVED.

-- THE COUNCIL SHALL HAVE NO AUTHORITY TO PASS
-- ANY ACT CONTRARY TO THE PROVISIONS OF THIS
-- ACT EXCEPT AS SPECIFICALLY PROVIDED IN THIS
-- ACT .

IT MUST ALSO BE BORNE IN MIND THAT THE CHANCERY ACT, NOTWITHSTANDING ITS CONDIFICATION IN THE D.C. CODE, STANDS IN PART AS CONGRESSIONAL ACTION, PURSUANT TO ITS FEDERAL LEGISLATIVE AUTHORITY, TO PROVIDE FOR LOCATIONS WHERE FOREIGN GOVERNMENTS MAY LOCATE THEIR EMBASSIES AND CHANCERIES. THE LEGISLATIVE HISTORY OF THE CHANCERY ACT MAKES IT CLEAR BEYOND QUESTION THAT IT WAS IN PART THE CONGRESSIONAL INTENTION TO ELIMINATE THEN-EXISTING DIFFICULTIES WHICH THE FOREIGN GOVERNMENTS HAD IN LOCATING CHANCERIES. THE ACT WAS NOT ALONE INTENDED TO BE RESTRICTIVE OF CHANCERY LOCATION, BUT WAS INTENDED ALSO TO PROVIDE A DEGREE OF CERTAINTY FOR THE APPROVAL OF LOCATIONS, AND TO DO SO FOR THE BENEFIT OF THE FOREIGN GOVERNMENTS. ACCORDINGLY, INsofar AS THE PROPOSED BILL WOULD OPERATE IN A MANNER WHICH IS MORE RESTRICTIVE, IN ITS REGULATION OF FOREIGN GOVERNMENT ACTIVITY, THAN ARE UNCLASSIFIED

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THE TERMS OF THE CHANCERY ACT, THE BILL CREATES THE MOST
SERIOUS TYPE OF QUESTION OF INTRUDING INTO AN AREA IN
WHICH THE CONGRESS HAS UNDERTAKEN TO LEGISLATE FOR NATIONAL
PURPOSES.

ACCORDINGLY, BASED ON THE VIEWS EXPRESSED HEREIN AND IN
THE PREVIOUS MEMORANDUM, IT IS MY OPINION THAT THE COUNCIL
IS FORECLOSED FROM ENACTING BILL 2-291. CHRISTOPHER

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